



## Lamoine Board of Appeals

606 Douglas Hwy  
Lamoine, ME 04605  
(207) – 667-2242  
town@lamoine-me.gov

### NOTICE OF DECISION

Doug Gott & Sons, Inc. v. Lamoine Planning Board  
June 4, 2014

The Lamoine Board of Appeals hereby finds that the Lamoine Planning Board erred in its application of Site Plan Review Ordinance review criterion J1 in regard to the above referenced case, and hereby returns the matter to the Lamoine Planning Board with the instruction to grant the Site Plan Review Permit for the building as proposed, conditioned on a mutually agreeable construction start and completion date not to exceed 14-months, and to place a priority on construction of the buffered berm between the building construction site and the abutting property owners.

#### Findings of Fact

**Fact 1** - The Planning Board denied a Site Plan Review Permit to Doug Gott and Sons because it did not comply with Section J1 of the ordinance in regard to soil disturbance; that the vote was 0-5 and there was a hand written notation on the written decision.

**Fact 2** - The proposal disturbs 70,000 cubic yards of material of which potentially 80% could be gravel, and setting a mid-range stumpage price of \$2.80 per yard gives potential revenue of \$156,800; that the cost of constructing the garage is between \$240,000 and \$320,000 and based on the numbers that it is unlikely that the action is a viable alternative for the purpose of gravel removal.

**Fact 3** - The garage as proposed will minimize the visual disturbance as opposed to a garage built at the natural ground level.

**Fact 4** - The exact amount of how much soil disturbance is too much makes the ordinance wording vague.

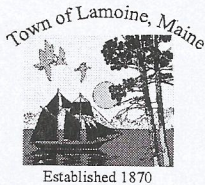
#### Conclusions of Law

The provisions of J1 and J2 (of the Site Plan Review Ordinance) are in conflict with respect (to) this proposal. If the garage is built at existing ground level – thus “minimizing disturbance of soil” (J1) – it will have significant “adverse effect on the aesthetic qualities of the neighboring area.” In the view of the Appeals Board, allowing the garage to be constructed as proposed will give full effect to J2 and will be consistent with the purpose of the site plan review (ordinance) set out in F2, namely, to balance the rights of the landowners to use their land with the corresponding rights of abutting and neighboring landowners to live without undue disturbances.

As decided on June 4, 2014 and finalized on July 14, 2014 by the Lamoine Board of Appeals

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Ordered by:

Hancock G. Fenton, Chair

Jon E. VanAmringe, Secretary

James Crotteau

Jay Fowler

Constance Bender

*The Lamoine Board of Appeal, Signed July 14, 2014*

Copies to: Ed Bearor, Attorney for Doug Gott & Sons, Inc  
Lamoine Planning Board  
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